

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 206.5(2) and 206.6(5) as amended by 2008 Iowa Acts, House File 2551, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, "Pesticides," Iowa Administrative Code.

The proposed amendments outline the requirements for the supervision of aerial pesticide applicators, the qualifications and duties of the aerial applicator supervisor, and the procedures for aerial application. The proposed amendments also outline the license, certification, and continuing instruction requirements for aerial applicators operating in Iowa.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on December 10, 2008. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

No waiver provision is included in these proposed amendments; however, the Department's general waiver rule would apply.

These amendments are intended to implement Iowa Code chapter 206 as amended by 2008 Iowa Acts, House File 2551.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **21—45.1(206)**:

*"Aerial applicator"* means a commercial applicator, certified in category #11, Aerial Application, who applies pesticides by using aircraft in compliance with Federal Aviation Administration regulations under Title 14 CFR Part 137 (1-1-08 Edition).

*"Aerial applicator supervisor"* means a person who is a resident of Iowa and holds a valid commercial applicator license, applicator certification in category #11, Aerial Application, and a pesticide dealer license and who supervises the commercial application of pesticides by aerial applicators.

*"Resident of Iowa,"* for purposes of subrule 45.22(17), means a person who meets the following qualifications:

1. The person is qualified to register to vote in this state.
2. The person is an employee of a corporation, association, partnership, company, or firm, whose principal place of business is located within Iowa.
3. Agricultural aircraft owned and operated by the person are registered with the Iowa department of transportation.

ITEM 2. Adopt the following **new** implementation sentence in rule **21—45.1(206)**:

This rule is intended to implement Iowa Code section 206.5 and section 206.6 as amended by 2008 Iowa Acts, House File 2551.

ITEM 3. Adopt the following **new** subrule 45.22(17):

**45.22(17) Requirements for commercial aerial applicator and aerial applicator supervisor.**

a. *Commercial aerial applicator license.* The licensed aerial applicator applying pesticides to agricultural land shall operate in Iowa under the direct supervision of an aerial applicator supervisor. "Under the direct supervision" means the same as defined in Iowa Code section 206.2. The application

form for a commercial aerial applicator license shall be provided by the pesticide bureau. The completed application form together with supporting documentation will verify compliance with Iowa Code chapter 206 and the rules of this chapter. An aerial applicator license may be issued when the applicant has provided the name and license number of the aerial applicator supervisor and other required information on the application form, passed the required certification examinations, and paid the commercial applicator license and certification fees in compliance with Iowa Code sections 206.5 and 206.6.

*b. Aerial applicator supervisor duties.* An aerial applicator supervisor shall be responsible for the following:

(1) Complete requirements for a commercial pesticide applicator license, a category #11 aerial applicator certification, and a pesticide dealer license.

(2) Register with the pesticide bureau on forms provided by the pesticide bureau.

(3) Meet with each aerial applicator under the supervisor's supervision prior to application of pesticides and verify compliance with Iowa's pesticide rules, the requirements of the Federal Aviation Administration, and the requirements of the Iowa department of transportation using a checklist provided by the pesticide bureau. A copy of the completed checklist shall be maintained on file for three years with the aerial applicator supervisor.

(4) Provide aerial maps for the intended application location with global positioning system (GPS) coordinates and field boundaries.

(5) Maintain daily communication with the aerial applicator when pesticide applications are performed with a minimum of one meeting in person each day emphasizing safe pesticide application and handling procedures.

(6) Maintain daily oversight of pesticide handlers' supplying or mixing pesticides for the aerial applicator under the supervisor's supervision to ensure required personal protection equipment is utilized.

(7) Provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and arrange for proper protection of registered apiaries. The aerial applicator supervisor shall identify nearby sensitive areas including the location of endangered species as identified by the U.S. Environmental Protection Agency (EPA) and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people including farmworkers.

(8) Provide instructions for proper emergency response procedures for the aerial applicator and pesticide handlers in the case of a pesticide spill or accident. Require that all pilots while in the air use an electronic communication device capable of communicating with a supervisor.

(9) Provide information immediately upon request to regulatory officials regarding the identification of a pesticide applied to an area of concern and the name and license number of the applicator working under the supervisor's supervision.

(10) Notify the aerial applicator in person and in writing upon termination of supervision. The aerial applicator shall notify the pesticide bureau when the aerial applicator begins working for a new aerial applicator supervisor.

*c. Procedures for aerial application.* The aerial applicator supervisor shall provide the licensed aerial applicator the following:

(1) Name and telephone number where the supervisor may be reached during hours of operation.

(2) Name and address or location of the property where the pesticide will be applied including maps of fields with GPS coordinates.

(3) Name of the pesticide(s) to be applied and copies of each label along with instructions necessary to comply with Iowa's pesticide rules. The aerial applicator supervisor shall verify that the aerial applicator has read and understands the label instructions.

(4) Maps with GPS coordinates and field boundaries of the intended location for each pesticide application reviewed and approved by the aerial applicator supervisor. The aerial applicator supervisor shall provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and shall arrange for proper safety precautions to protect registered apiaries.

(5) The identification of nearby sensitive areas including the location of endangered species as identified by EPA and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people including farmworkers.

*d. Responsibility.* The aerial applicator is responsible for applying pesticides in compliance with label directions and Iowa's pesticide rules. The aerial applicator supervisor supplying a pesticide for application by the aerial applicator is responsible for handling and mixing the pesticides according to label directions and Iowa's pesticide rules.

*e. Aerial applicator certification and continuing instruction.* An aerial applicator shall pass an examination for initial certification. An aerial applicator from a state with an approved reciprocal certification agreement will be eligible for reciprocal certification. Each certified aerial applicator and aerial applicator supervisor shall participate in a program of continuing instruction which shall consist of either an examination or educational program approved by the department. The continuing instruction program shall include information regarding the safe application and handling of pesticides and responsible operation of aircraft spray equipment.

ITEM 4. Amend rule ~~21—45.22(206)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.7, and 206.31~~and~~  
~~Iowa Code Supplement section 206.5~~ and Iowa Code section 206.6 as amended by 2008 Iowa Acts,  
House File 2551.